

FREEDOM OF INFORMATION ACT

and

RELATED ACTIVITIES

14 June 1983

Office of Information Services



Freedom of Information Act
and Related Activities

BACKGROUND

It has been nearly ten years since the Freedom of Information Act (FOIA) was amended and the Agency became subject to the full provision of this Act. Shortly after the FOIA was amended the Privacy Act (PA) of 1974 became law and provides for U.S. citizens to request information in government files that pertains to them. Such requests are known as "my file" requests. Another element of the FOI program in CIA is the mandatory review of classified material as provided for in Executive Order (EO) 12356. This material consists primarily of documents brought to our attention by the Presidential libraries--that is, CIA records that are on file in a secure manner in any one of six active presidential libraries (Kennedy, Johnson, Truman, Eisenhower, Ford and Roosevelt). The Nixon and Carter era libraries are not yet functional.

From the outset those three elements (FOIA/PA/EO) of releasing information to the public have been managed centrally in the CIA. This centralized approach provides for one office, the Information and Privacy Division (IPD), to track and manage all such FOIA, PA, and EO requests and represents a clearing house for all such material leaving the Agency. Quality and consistency of our product have been assured over time with only a minimal number of discrepancies having occurred in the eight plus years of operation. Our greatest burden has been and continues to be the FOI requests that seek to open our most secret intelligence operations, erode our product, and damage our credibility with clandestine sources.

Legislative relief has been proposed in the Senate that would make certain operational files exempt from the FOIA search and review process. This bill, which is known as the Intelligence Information Act of 1983 and amends the CIA act of 1949, if passed in the present form, will give relief from searching many of our most sensitive operational files. Those intelligence products disseminated outside of CIA will be subject to search and referral back to CIA for review and release of responsive information.

FOIA requests reached a high point of over 6,000 in 1975 and in 1982 leveled off to a rate of just under 1,200 requests. In 1982 FOIA/PA/EO requests totaled 2,278. Manpower devoted to our total activities has averaged an annual rate of 108 work-years. In 1982 we expended 128 work-years, or a decrease of 13 over the 1981 effort of 141 work-years.

ADMINISTRATIVE INTERNAL USE ONLY

PROBLEM DISCUSSION

Implicit in the passage of the proposed legislation is the need to eliminate our backlog of FOIA/PA/EO requests, some of which require two or three years to provide a final response. The backlog as of 31 May 1983 tallied 2,869, the major portion of which was attributed to the Directorate of Operations (DO) material.

The challenge is, therefore, how to eliminate the backlog in concert with the legislative relief and ensure that CIA will continue to respond in a timely manner to FOIA/PA/EO requests.

ALTERNATE SOLUTIONS

Rely on DO Concerted Effort

The DO has tentatively indicated that some 400 cases will drop from their workload on passage of the proposed FOIA bill. This would then allow the DO to work off their backlog in 14 months, based on the present rate of FOIA/PA/EO requests being received.

Several alternatives are being considered by the DO that would eliminate their backlog in a shorter period of time. Those alternatives are not available at present.

Office of Information Services Supplemental Assistance

It is assumed that the FPLG/IMS/DO will continue to review its material, and since it is expected that no new requests for DO material will be received, they should be working almost entirely on the backlog. To supplement this effort, OIS could contribute by using its review resources to take the initial cut at a share of the backlogged DO material and coordinate as necessary with the DO. When it is determined that information should be withheld, the DO coordination can be done quickly. Even where information is to be released, items that are obviously or possibly classified are highlighted, making the coordinating review go more quickly. Whether this combination of efforts would be sufficient to work off the DO backlog in four to six months is difficult to predict, but at least it would reflect a strong CIA effort in which nearly all the Agency's full-time reviewers would be used on this problem.

Centralized Review

Once the backlog has been eliminated, it would be well for the Agency to consider instituting a centralized review program similar to that used for systematic classification review. The Department of State and the FBI have centralized their review efforts with very positive results. The following are a number of key points that make this an attractive alternative to eliminate the backlog and thereafter, to continue a centralized review function.

a. It economizes on the use of resources, improves consistency of classification decisions, and speeds up replies. While there are differences between the agencies, there does not appear to be any reason such a program would not work for CIA in the FOIA/PA/EO field, just as it did for the CIA systematic review program.

b. Review personnel would come from all Directorates, on rotational assignment to OIS in positions earmarked for "their" Directorates. The reviewers would work as a central unit using common and consistent guidelines. There would be active daily consultation among the reviewers in the course of their work which would bring broad agency experience to bear on any question that arises. Whenever they require confirmation of their decision, they would coordinate directly with the Directorate or Directorates involved.

c. There would be greater consistency in review actions, response time would be reduced, record keeping would be improved, and less manpower would be required. Close coordination would be maintained with the Directorate Information Review Officers to assure continued communication and up-to-date guidance.

d. The DO and other major components, as appropriate, would transfer their review positions to DDA/OIS for the central review unit. Positions transferred from the DO or other components would be identified on the T/O as belonging to the component from whence they came. Reviewers occupying those positions would be on rotational assignment as mentioned in (b) above.

This is exactly the procedure that the Classification Review Division has followed for several years on State Department material for the Foreign Relations of the United States publications, on historical manuscripts originated by the U.S. Army and Air Force, on requests received from Congress, and on numerous other ad hoc review requests that have come to the Agency. There is extensive experience in this method of handling classification review and it works. There have been no adverse impacts from this activity, and it has led to faster responses. This latter point means better satisfied requesters and, under the new FOIA law, a more contented Congress.